

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY SWEATT ,

Plaintiff,

v.

SUNKIDD VENTURE, INC., dba
AMERICAN BONDED COLLECTION
SPECIALIST; and DUVALL CRAIG R. dba
CRESTWOOD CONSTRUCTION,

Defendants.

Case No. C05-5406FDB

ORDER GRANTING MOTION OF
DEFENDANT CRAIG R. DUVALL
d/b/a CRESTWOOD
CONSTRUCTION TO DISMISS

Defendant Craig R. Duvall d/b/a Crestwood Construction moves for dismissal on the basis that the Fair Debt Collection Practices Act (FDCPA) does not regulate the activities of creditors such as Crestwood. The FDCPA draws a distinction between a “creditor,” defined as “any person who offers or extends credit creating a debt or to whom a debt is owed.” and a “debt collector,” defined as a third-party whose principal business is to collect, or attempt to collect, a debt owed to another. 15 U.S.C. § 1692a(4) and § 1692e. The purpose of the FDCPA was to eliminate the abusive debt collection practices by debt collectors. *Id.*


Crestwood referred an outstanding balance owed at the end of Larry Sweatt’s tenancy at Crestwood to a debt collector, co-defendant American Bonded Collection Specialist (ABC).

1 Plaintiff opposes dismissal arguing that Defendant Sunkidd (dba ABC) sent him a dunning
2 letter March 23, 2004, nearly two years after he had paid the debt to Crestwood. Plaintiff argues
3 that Crestwood is vicariously liable for Sunkidd's actions because Crestwood controlled Sunkidd to
4 the extent that Sunkidd was directed by Crestwood to collect from Plaintiff. Moreover, Plaintiff
5 notes that he is moving to amend his complaint to file a tort damages claims against Defendants.

6 The Court cannot conclude on the record here that there was an agency relationship between
7 Duvall/Crestwood and Sunkidd/ABC rather than an independent contractor relationship.
8 Accordingly, the FDCPA claims against Defendants Craig R. Duvall d/b/a Crestwood Construcion
9 must be dismissed.

10 ACCORDINGLY, IT IS ORDERED: Defendant Craig R. Duvall d/b/a Crestwood
11 Construction's Motion To Dismiss [Dkt. # 38] is GRANTED, and Plaintiffs claims under the Fair
12 Debt Collection Practices Act against these defendants are DISMISSED.

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14 DATED this 23rd day of August, 2006.

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17 FRANKLIN D. BURGESS
18 UNITED STATES DISTRICT JUDGE
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